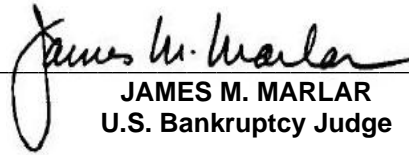


SIGNED.



Dated: March 12, 2009


JAMES M. MARLAR
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:) Chapter 11
FIRST MAGNUS FINANCIAL)
CORPORATION,) No. 4:07-bk-01578-JMM
MEMORANDUM DECISION
(CLAIMS OF ANGELA GANAHL, MARGARET
Debtor.) GELPI AND DEBBIE SHOEMAKER)

On January 27, 2009 this court heard and considered the positions of various parties concerning objection to their claims, which had been filed by the Liquidating Trustee under the confirmed plan of reorganization of this debtor. None of the claimants appeared in court to present their cases. At the conclusion of the hearing, the court took certain objections under advisement, in order to more fully review the law (Dkt. #5138). The matters taken under advisement were:

<u>Claimant</u>	<u>Claim #</u>	<u>Objection, Response, Reply</u>
Angela Ganahl	3385	Docket 4760, 4788, 5100
Margaret Gelpi	3015	Docket 4274, 4749, 5100
Debbie Shoemaker	1690	Docket 4760, 4791, 5100

Each claim will be discussed in turn.

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Ms. Ganahl presented no affirmative evidence. The evidence presented by the Liquidating Trustee shows that the First Magnus employer handbook only authorized "current employees" to the benefits of accrued vacation and/or sick pay.

Ms. Ganahl's claim for \$1,540.80 for unused vacation will be denied.

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For the reasons set forth above, as to Ms. Ganahl's similar claim, this claim for unused vacation pay shall be denied.

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Ms. Shoemaker notes that it is inequitable to treat employees, who loyally waited for their chance to take vacation, differently than those who were fortunate enough to have actually taken their vacation prior to the mass layoff.

While the court sympathizes with this position, in the absence of evidence to show that First Magnus failed to follow the dictates of its written handbook policies, this court has no discretion which can be exercised equitably. Equity follows the law, and the law does not authorize recovery here.

For the reasons set forth above, as to Ms. Ganahl's similar claim, this claim for unused vacation pay must also be denied.

RULING

Ms. Ganahl's claim of priority for \$1,540.80 for unused vacation pay will be DENIED.

Ms. Gelpi's claim of priority for six months of unused vacation pay will be DENIED.

Ms. Shoemaker's claim of priority for unused vacation pay will be DENIED.

Counsel for the Liquidating Trustee shall submit a form of order consistent with this decision, and serve a copy on Ms. Ganahl, Ms. Gelpi and Ms. Shoemaker. Any appeal from the orders must be filed within ten days after the orders are signed. FED. R. BANKR. P. 8002.

DATED AND SIGNED ABOVE.

COPIES served upon the following in the manner indicated on the date signed above:

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By /s/ M.B. Thompson
Judicial Assistant